

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

HAROLD SHREWSBURY,

Plaintiff,

v.

CIVIL ACTION NO. 5:24-cv-00004

MARTIN J. O'Malley,
*Commissioner of the
Social Security Administration*

Defendant.

ORDER

Pending are (1) Plaintiff Harold Shrewsbury's Complaint seeking review of a final decision of the Commissioner of Social Security [Doc. 1], filed on January 2, 2024, (2) Plaintiff's Brief in Support of Judgment on the Pleadings and request for remand [Doc. 5], filed on March 25, 2024, and (3) Defendant Commissioner O'Malley's Brief in Support of the Pleadings and request to affirm the decision of the Commissioner [Doc. 6], filed April 24, 2024. This action was previously referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). [Doc. 2]. Magistrate Judge Aboulhosn filed his PF&R on May 7, 2024. [Doc. 8]. Magistrate Judge Aboulhosn recommended that the Court grant the Plaintiff's request for remand [Doc. 5], deny the Defendant's request to affirm the decision of the Commissioner [Doc. 6], reverse the final decision of the Commissioner, and remand the matter to the Commissioner for further administrative action. [Doc. 8].

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C.

§ 636(b)(1) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*” (emphasis added)). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner’s right to appeal the Court’s order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically “appeal a magistrate judge’s findings that were not objected to below, as § 636(b) doesn’t require de novo review absent objection.”); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on May 21, 2024. [Doc. 8]. No objections were filed.

Accordingly, the Court **ADOPTS** the PF&R [Doc. 8], **GRANTS** the Plaintiff’s request for remand [Doc. 5], **DENIES** Commissioner O’Malley’s request to affirm the decision [Doc. 6], **REVERSES** the final decision of the Commissioner, **REMANDS** this matter pursuant to 42 U.S.C. § 405(g) for further administrative proceedings consistent with the PF&R, and **DISMISSES** this case, **WITH PREJUDICE**, and removes it from the docket.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTERED: June 4, 2024



Frank W. Volk
 Frank W. Volk
 United States District Judge